IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.131 OF 2007
IN
CRIMINAL APPLICATION NO.693 OF 2007

The State of Maharashtra ..Applicant
Vs.
Vinayak @ Vinya Bhagwan Gaikwad & Anr. ..Respondents

Mr.P.S.Hingorani,A.P.P.for the Applicant.
None for the Respondents.

CORAM :- DR.S.RADHAKRISHNAN &
SMT.R.S.DALVI,JJ.
DATE : 4TH JULY,2007

P.C.

1. Heard the learned A.P.P.for the State and the learned Counsel for Respondent No.1. We find that the Respondent No.2 has been served on 29th June,2007.

2. By this Application, the State is seeking condonation of 1031 days delay in filing the Criminal Application for leave to Appeal against the order of acquittal passed by the learned Additional Sessions Judge for Greater Mumbai. We have perused the application dated 15th February,2007. In paragraph No.1, it is categorically mentioned that the learned Additional Sessions Judge had acquitted both the Respondents for the offence punishable under Section 144,148 and 302 read with Section 149 and Section 457,427 read with Section 34 of the Indian Penal Code, on 20th January,2004.

3. In the said Application, the Applicant-State has clearly stated that it had applied for certified

copies only on 16th November,2006 and the certified copies were ready on 21st November,2006 and thereafter appropriate sanction was obtained from the Law and Judiciary Department on 19th January,2007 and thereafter, the papers were sent to the Public Prosecutors' Office on 23rd January,2007 and then the Appeal has been lodged in the month of February,2007. The learned A.P.P. is unable to point out as to why the State did not take any steps of whatsoever to prepare this Application for Leave to Appeal against the order of acquittal, right from 20th January,2004 till 16th November,2006 i.e. for almost three years. There is absolutely no explanation in the above Application for such a gross delay. In view of the above, we are not inclined to entertain the Application for condonation of delay in filing the above Appeal. Hence, the same stands dismissed.

4. The learned A.P.P. assures that the Law and Judiciary Department will take appropriate action against the concerned Public Prosecutor, as to why no steps were taken for applying for certified copies within a reasonable time.

5. In view of non condonation of delay, the Application for Leave to Appeal against the order of acquittal also stands dismissed.

(SMT.R.S.DALVI,J.) **(DR.S.RADHAKRISHNAN,J.)**